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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,628	09/06/2006	John Mueller	07420.25183	8197
24382	7590	08/26/2008		
JOSEPH S. HEINO, ESQ. DAVIS & KUELTHAU, S.C. 111 E. KILBOURN SUITE 1400 MILWAUKEE, WI 53202-6613			EXAMINER KIM, CHRISTOPHER S	
			ART UNIT 3752	PAPER NUMBER
			MAIL DATE 08/26/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/598,628

Applicant(s)

MUELLER, JOHN

Examiner

Christopher S. Kim

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-28 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 06 September 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date 9/6/06
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Inventor's Patent Application
6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 165, 168 on page 8, lines 20 and 19, respectively. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 2, 3 and 17-28 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the means for sealing the at least one aperture being an element of the valve runner, as in claims 7 and 8, does not

reasonably provide enablement for the means for sealing being a separate element of the valve runner. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention commensurate in scope with these claims. The specification teaches, on pages 10 and 13, that the means 165 for sealing is an element of the valve runner 150.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "said first end" in line 9. It is uncertain whether it is in reference to the "first end" recited in line 4 or the "first end" recited in line 7.

Claim 1 recites "means for...receiving the flexible conduit" in lines 19-20 and "...in which the fluid flow is directed from the fluid inlet means through said first and second bores of the valve runner and to the flexible conduit" in lines 29-31. The preamble of claim 1 is directed to an improved showerhead but the body of the claim contains recitation directed to the flexible conduit. The preamble defines a subcombination of a showerhead but the body of the claim defines a combination of a showerhead and rinsing system.

Claim 4 recites "an attachment housing" in lines 1-2. It appears to be a double inclusion of the "means for constraining said valve runner...and for receiving the flexible conduit" recited in claim 1, lines 19-20.

Claim 6 recites the limitation "said attachment housing" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

The preamble of claim 6 is directed to an improved showerhead but the body of the claim contains recitation directed to the flexible conduit. The preamble defines a subcombination of a showerhead but the body of the claim defines a combination of a showerhead and rinsing system.

Claim 9 recites "a first interior passage...and a second interior passage" in lines 3-4. They appear to be a double inclusion of the "first bore...second bore" recited in claim 1, lines 14-15.

Claim 10 recites "...has a slot shape..." It is uncertain what has the slot shape.

Claim 11 recites "...has a slot shape..." It is uncertain what has the slot shape.

Claim 17 recites "said first end" in line 8. It is uncertain whether it is in reference to the "first end" recited in line 4 or the "first end" recited in line 7.

Claim 17 recites "means for...receiving the conduit attachment" in lines 21-22 and "...in which the fluid flow is directed from the fluid inlet means through said first and second bores of the valve runner and to the conduit attachment" in lines 31-34. The preamble of claim 17 is directed to an improved showerhead but the body of the claim contains recitation directed to the conduit attachment. The preamble defines a subcombination of a showerhead but the body of the claim defines a combination of a showerhead and a conduit attachment.

Claim 19 recites "an attachment housing" in lines 1-2. It appears to be a double inclusion of the "means for constraining said valve runner...and for receiving the flexible conduit" recited in claim 1, lines 19-20.

The preamble of claim 20 is directed to an improved showerhead but the body of the claim contains recitation directed to a rinse system. The preamble defines a subcombination of a showerhead but the body of the claim defines a combination of a showerhead and rinsing system. Additionally, the rinse system appears to be a double inclusion of the conduit attachment recited in claim 17.

Claim 21 recites "means for sealing the at least one aperture" in line 2. It appears to be a double inclusion of the "means from sealing the at least one aperture" in claim 17.

Claim 22 recites "a circumferential flange" in line 2. It appears to be a double inclusion of the "means from sealing the at least one aperture" in claim 17.

Claim 23 recites "a first interior passage...and a second interior passage" in lines 3-5. They appear to be a double inclusion of the "first bore...second bore" recited in claim 17, lines 13-14.

Claim 23 recites "...has a slot shape..." in lines 10-11. It is uncertain what has the slot shape.

Claim 23 recites "...has a slot shape..." in line 16. It is uncertain what has the slot shape.

Art Unit: 3752

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-11, 17-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Mueller et al. (5,560,548).

Mueller discloses a showerhead comprising:

a hollow outer casing 120;

an inner casing 130 having:

at least one aperture 135;

a valve runner 150 defined by:

means 158, 175 for sealing the second bore;

means 30 for constraining said valve runner 150...and for receiving the flexible conduit 92;

fluid inlet means 110;

means 157, 174 for sealing the at least one aperture when the valve runner is in the second position;

an attachment housing 30.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 12-16 and 24-28 rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller et al. (5,560,548).

Mueller discloses the limitations of the claimed invention with the exception of the valve runner being made of two elements: a plug and plug sleeve. Mueller's valve runner is made of one element. Flanges are well known in the art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the valve runner of Mueller from two elements for ease in manufacturing, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571) 272-4905. The examiner can normally be reached on Monday - Friday, 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571) 272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher S. Kim/
Primary Examiner, Art Unit 3752

CK